

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ROBERT LEE ALLEN,)	
)	
Plaintiff,)	
)	
V.)	Civil Action No. 2:07-cv-90-ID-WC
)	
WILLIE VAUGHNER, et al.,)	
)	
Defendants.)	

**DEFENDANTS' MOTION FOR LEAVE TO
SUBSTITUTE AFFIDAVIT IN SPECIAL REPORT**

COME NOW Willie Vaughner, Sheriff of Lowndes County, Alabama, and Lowndes County, Alabama Sheriff's Office Correctional Officers Lieutenant Jeanetta Cottrell, Captain Laura Gresham, Sergeant Lakisha Bolling, and Lowndes County Sheriff's Deputy Investigator Lenny Lee, Defendants in the above-styled cause, and submit this Motion for Leave to Substitute the Affidavit of Lakisha Bolling attached as Affidavits to their Special Report with the signed and executed Affidavit of Lakisha Bolling filed contemporaneously with this Motion. As grounds for so moving, the Defendants state as follows:

1. Defendants filed their Special Report on May 4, 2007.
2. Attached to the Special Report was the unexecuted copy of the Affidavit of Lakisha Bolling. Due to delivery problems, the executed copy was not available at the time of filing of the Special Report.
3. Plaintiff will not be prejudiced by this substitution.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request that this Court grant their Motion for Leave to Substitute the Affidavit of Lakisha Bolling attached to

their Special Report with the signed and executed Affidavit filed contemporaneously with this Motion.

Respectfully submitted this the 23rd of May 2007.

s/Daryl L. Masters
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CERTIFICATE OF SERVICE

I hereby certify that on this the **23rd day of May, 2007**, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that I have mailed by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Robert Lee Allen
Autauga Metro Jail
136 North Court Street
Prattville, AL 36067-3002

s/Daryl L. Masters
OF COUNSEL

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ROBERT LEE ALLEN,

Plaintiff,

V.

WILLIE VAUGHNER, et al.,

Defendants.

Civil Action No. 2:07-cv-90-ID-WC

AFFIDAVIT OF LAKISHA BOLLING

STATE OF ALABAMA

COUNTY OF LOWNDES

BEFORE ME, the undersigned authority and Notary Public in and for said County and State at large, personally appeared Lakisha Bolling, who being known to me and being by me first duly sworn on oath deposes and says as follows:

1. My name is Lakisha Bolling. I serve as a correctional officer for the Lowndes County, Alabama Detention Facility and have attained the rank of Sergeant. I am over the age of nineteen and competent to make this affidavit.

2. Officer Lee arrived at the Lowndes County Jail between 1:30 and 2:00 p.m. on January 22, 2007. After being confronted by Officer Lee, Lieutenant Jeanetta Cottrell, and myself, Inmate Allen complied with orders, and we escorted him from the dormitory area of the jail to a holding cell in the booking area. Mr. Allen was being moved from the cell in the dorm area due to the fact that he had damaged a window and a light fixture in cell 8-4. Before being

moved, Allen was allowed to gather his possessions into a storage bin, and carry these with him to the booking area.

3. After Mr. Allen had been placed in the holding cell, Officer Cottrell and I took his property box to the property room where any appropriate items could be stored. We looked through the box to be sure that no weapons were present, and, when we were satisfied that this was so, it was determined that Mr. Allen could have his property back after he calmed down. Contrary to the assertions in the Plaintiff's Complaint, we never took the property box to the nurse's area, and never read any contents of any mail, legal or otherwise, that was in Allen's property box.

4. The Plaintiff in this action, Robert Lee Allen, submitted numerous inmate requests/grievance forms to members of the jail staff during his incarceration. All grievances submitted by Mr. Allen were placed in his jail file, per standard operating procedure. I do not remember receiving any request or complaint from the Plaintiff concerning any of the allegations made in his Complaint. Accordingly, the Plaintiff has failed to exhaust his administrative remedies at the Lowndes County Detention Facility.

5. I deny that I have acted, or caused anyone to act, in such a manner so as to deprive the Plaintiff of any right to which he was entitled.

6. I have read the foregoing Report and I swear that the information contained therein is true and correct to the best of my present knowledge.

7. I swear, to the best of my present knowledge, that the above statements are true, that I am competent to make this affidavit, and that the above statements are made by drawing from my personal knowledge of the situation.

Lakisha Bolling
LAKISHA BOLLING

SWORN TO and SUBSCRIBED before me this the ^{23rd} day of May, 2007.

Lance K. J.R.
NOTARY PUBLIC
My Commission Expires: April 6, 2010

(SEAL)